

REMARKS

Claims 1-18 are pending in this application, with claim 18 having been added. Claims 2-17 have been amended to define still more clearly what Applicants regard as their invention; these changes have been made for the purposes of clarification only, and no change in scope of the claims is either intended or believed to be effected by the changes. Claims 1 and 18 are independent.

Claims 1-17 were rejected under 35 U.S.C. § 103(a) as being obvious from U.S. Patent 5,182,922 to Allread in view of U.S. Patent 6,969,094 to Frohling, and as being obvious from Allread in view of U.S. Patent 5,174,612 to Schnell.

Applicants submit that independent claims 1 and 18, together with the claims dependent therefrom, are patentably distinct from the cited references for at least the following reasons.

Claim 1 is directed to a motor vehicle having at least one air conditioning system (1) ducting (6,12,15) that connects a compressor (3) attached to an engine (2) of the motor vehicle with at least one heat exchanger (8,10) attached to a body (7) of the motor vehicle, wherein the ducting (6,12,15) has at least one curve (37-40). The ducting is made entirely of metallic substance, inclusive of couplings (42-45) thereof, and has an outside diameter of no more than less than 13 mm.

As conceded by the Examiner (see page 2 of the Office Action), Allread does not disclose “the couplings being made entirely of metallic substances.” The Examiner reasons that Frohling or Schnell would supply what is missing from Allread.

As such, the Examiner considers again the claimed invention from a formal and retro-perspective point of view. But it is well settled that “impermissible hindsight must be avoided.” MPEP 2142.

According to each of the cited documents of prior art, the problem of transmission of vibrations is solved without exception by incorporation of a component part made from an elastic damping material like rubber. This elastic material is provided either as a part of the pipe, or, as taught by Allread, as a flexible part of the tube coupling.

It corresponds to a principle of pipe couplings to be made as a stiff part of a pipe system. The prior art according to Allread shows an exception of this principle, so that it is avoidable to manufacture a part of the tubing from an elastic material.

However, replacing the flexible part of the tube coupling of Allread by a stiff tube coupling as taught by Frohling or according to most of the used prior art would be contrary to the teaching of Allread and dismantle the system from any damping means at all.

**PRIOR ART MUST BE CONSIDERED IN ITS
ENTIRETY, INCLUDING DISCLOSURES THAT
TEACH AWAY FROM THE CLAIMS MPEP 2141.02 VI**
(emphasis original)

In contrast to such prior art teachings, it is essential for the present invention that an elastic material is entirely avoided, so that the system is made entirely from metallic (i.e. no elastic) substance. Claim 1 recites, *inter alia*, “the ducting is made entirely of metallic substance, inclusive of couplings (42-45) thereof.”

Prior to the present invention, there was no obvious prior art teaching for avoiding the transmission of vibrations without the use of a (elastic) damping material. The contrary arguments of the examiner are constructed (retro-perspective) from the knowledge of the surprising solution according to the present invention. But, again, impermissible hindsight must be avoided. And MPEP 2142 provides, with respect to establishing a *prima facie* case of obviousness, that “[t]he key to supporting any rejection under rejection under 35 U.S.C. 103 is the clear articulation of the reason why the claimed invention would have been

obvious.”

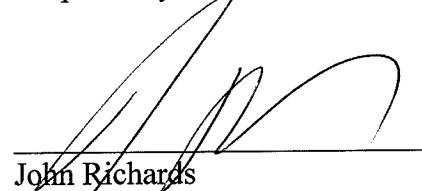
For at least the foregoing reasons, claim 1 is seen to be clearly allowable over the cited references.

Independent claim 18 is a combination of claims 1 and 2. Claim 18 recites features which are similar in many relevant respects to those discussed above in connection with claim 1, and, accordingly, claim 18 is believed to be patentable for at least the same reasons as discussed above in connection with claim 1. Claim 18 is also believed to be patentable for reciting the feature of claim 2 “wherein the ducting has a second curve, one curve being for damping and one curve being determined by a geometry of a compartment for the engine compartment,” which is not taught or suggested by the cited references. It is also noted that the Office Action does not make out rejections of the dependent claims, even if it refers to them generally.

The other claims in this application are each dependent from claim 1 discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration or reconsideration, as the case may be, of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'John Richards', is written over a horizontal line.

John Richards
c/o Ladas & Parry LLP
26 West 61st Street
New York, New York 10023
Reg. No. 31,053
Tel. No. (212) 708-1915